

MONTGOMERY COUNTY
FIRE AND RESCUE COMMISSION
SPECIAL MEETING
MINUTES
NOVEMBER 13, 2000
PUBLIC SAFETY TRAINING ACADEMY
Rockville, Maryland

COMMISSIONERS PRESENT:

Gordon A. Aoyagi, Chairman
Fernando Bren, Vice Chairman
Robert L. Freeman
Tom Carr
Leonard J. Marco
Ronald Ogens
Anita Powell
Paul Sterling, Jr.

STAFF PRESENT:

Neil Shorb, Staff Director
George Giebel, MCFRS
Annette Cheng, Office Services Coordinator

OTHERS PRESENT:

Chief Roger W. Strock, DFRS
Captain Troy E. Lipp, DFRS
Chief Thomas E. Jones, Glen Echo FD
Eileen Queenin, DFRS
Amy Davis, IAFF Local 1664
Deputy Chief Jerry Nix, Laytonsville District VFD
President John Sparks, IAFF Local 1664
Assistant Chief Randy Wheeler, DFRS
Chief David Dwyer, DVFRS
Chief Murphy Richards, Laytonsville District VFD
President Thomas Twigg, Laytonsville District VFD
Deputy Chief Bruce Surette, Damascus VFD
Chief Darron Long, Damascus VFD
Chief Doug Edwards, Hyattstown VFD
Joe Moore, Esquire, Rockville VFD
Marcine Goodloe, MCVFRA

Duty Chief Lisa Larson, Gaithersburg-Washington Grove VFD
President Joseph Chornock, Germantown VFD
Assistant Chief Thomas R. Gartner Sr., Damascus VFD
President Kenneth B. Day, Hyattstown VFD
Chief George W. Brown Jr., Sandy Spring VFD
President Eric Bernard, Rockville VFD
President Andrew White, Kensington VFD
Richard Holzman, MCCFROA
Deputy Chief Robert Allwang, DFRS
Captain Edward Radcliffe, DFRS
Chief Robert McHenry, Gaithersburg-Washington Grove VFD
Chief Dennis Urban, Bethesda FD
Josie Wells, Montgomery County National Organization for Women
Assistant Chief Andy Johnston, DFRS

100 - CALL TO ORDER

The meeting of the Fire and Rescue Commission was called to order by Chairman Aoyagi at 8:10 p.m. at the Public Safety Training Academy in Rockville, Maryland.

400- BUSINESS ITEMS

403- Revision to Integrated Emergency Command Structure Regulation

Chairman Aoyagi provided a brief overview and background of the process used to develop a proposed IECS Regulation. He noted the requirement in Chapter 21 for the Commission to adopt an IECS, while substantial changes were made to the policy, the major points of disagreement continue to focus on section 4.b.4 regarding the assumption of incident command by a Fire and Rescue Chief. The Operations Committee had met and formulated a consensus recommendation to the Commission, as contained in the packet.

The action to be taken by the Commission is to approve the publication of the proposed IECS policy in the County Register for a 30-day comment period.

Commissioner Sterling then suggested the following changes to the regulation:

- page 4, sec.3.1 – Jurisdiction: delete from the Operations Committee’s recommendation the last sentence that reads: “ *The jurisdiction of the DFRS and DVFRS Division Chiefs encompasses all of Montgomery County.* ”
- page 6, sec. 4.b.4: substitute the Operations Committee recommended language with the language from President White of the Fire Board to read: “ *The first arriving officer is the incident commander. The assigned on-duty command officer from the first-due jurisdiction may assume control from a command officer of equal rank. Nothing in this policy shall prevent a local Fire and Rescue Chief from assuming command over an incident within his or her jurisdiction.* ”

A MOTION was made by Commissioner Sterling to amend the Integrated Emergency Command Structure Regulation as described above. MOTION SECONDED by Commissioner Marco.

Commissioner Ogens indicated that the Commission should make a motion to adopt the regulation prior to amending it.

Commissioner Sterling withdrew his motion. Commissioner Marco withdrew his second.

Commissioner Carr stated that the Operations Committee met on October 25, 2000 and unanimously agreed to recommend to the FRC the language presented in tonight’s agenda packet. The amendment offered by Commissioner Sterling was not discussed by the Operations Committee.

A MOTION was made by Commissioner Sterling to approve for publication the Integrated Emergency Command Structure Regulation as amended with the following changes:

- **page 4, sec.3.1 – Jurisdiction: delete last sentence that reads: “ *The jurisdiction of the DFRS and DVFRS Division Chiefs encompasses all of Montgomery County.* ”**
 - **page 6, sec. 4.b.4: substitute existing language with language from President White of the Fire Board to read: “ *The first arriving officer is the incident commander. The assigned on-duty command officer from the first-due jurisdiction may assume control from a command officer of equal rank. Nothing in this policy shall prevent a local Fire and Rescue Chief from assuming command over an incident within his or her jurisdiction.* ”**
- MOTION SECONDED by Commissioner Marco.**

After extensive discussion of the amended policy, the motion was voted upon with Commissioners Marco, Powell, and Sterling voting for the motion; Commissioners Carr, Freeman and Ogens voting against and Commissioner Bren abstained from the vote. MOTION FAILED.

Commissioner Ogens requested the Commission have a recess for a period of 20 minutes.

A MOTION was made by Commissioner Ogens to recess the Commission for a period of 20 minutes. MOTION SECONDED by Commissioner Sterling and PASSED unanimously.

The recess was taken and the meeting was reconvened at 9:30 p.m.

The Chair ruled that it would be helpful to hear from the audience comments on Operations Committee's recommendation. He would select alternating speakers – pro and con. Members of the audience were invited to speak.

- President John Sparks, IAFF Local 1664

President Sparks reported that Local 1664 supports the publication of the IECS Regulation as proposed and recommended by the Operations Committee in the County Register.

- Chief Darron Long, Damascus VFD

Chief Long questioned which section in Chapter 21 supports the language stated in sec. 3.1 – jurisdiction: “*The jurisdiction of the DFRS and DVFRS Division Chiefs encompasses all of Montgomery County.*”

Mr. Giebel reported the definition of Corporation jurisdiction existed in the old Chapter 21. Under the new law, such definition was deleted and the definition of the Division Chiefs was created and their authority is County-wide.

- Richard Holzman, Chair of the Montgomery County Career Fire and Rescue Officers Association

Mr. Holzman reported that the MCCFROA strongly endorses the language in this proposed IECS Regulation as recommended by the Operations Committee. In the event the Commission failed to adopt this regulation tonight, the Association requests revisiting the entire IECS regulation.

- Marcine Goodloe, Vice-Chair of the Montgomery County Volunteer Fire/Rescue Association

Ms. Goodloe mentioned Bill #37-97 in which the day to day command of the DVFRS Chief was removed. She also raised concerns about the changes to the dispatch assignment.

- Chief Roger Strock, DFRS

Chief Strock reported that at the request of the Fire Administrator, he and Chief Dwyer started the process of drafting the IECS regulation in June 1999. The final compromise language as proposed by the Operations Committee's recommendation in the packet was supported by the DFRS. A motion was passed unanimously to approve the proposed language at the October 25, 2000, Operations Committee meeting. The Chiefs Committee approved the same language at its October 26, 2000 meeting.

Chief Strock recommended that the Commission adopt the proposed IECS regulation as presented.

- President Eric Bernard, Rockville VFD

President Bernard reported that the issue of IECS 24 hours should be considered in the IECS regulation.

- Chief David Dwyer, DVFRS

Chief Dwyer reported that he had talked with the LFRDs Chiefs who expressed their opinion for a new definition for Jurisdiction.

- Duty Officer Lisa Larson, Gaithersburg-Washington Grove VFD

Duty Officer Larson questioned why the Commission has difficulties substituting "dispatched officer" with "assigned on-duty command officer".

Fire Administrator Aoyagi reported that the Operations Committee discussed this issue at its October 25, 2000 meeting and agreed with the proposed language above.

A MOTION was made by Commissioner Ogens that the Commission finds changes proposed for the IECS regulation will improve public safety. MOTION SECONDED by Commissioner Bren and PASSED with Commissioners Bren, Carr, Freeman and Ogens voting for the motion and Commissioners Marco, Powell and Sterling voting against.

A MOTION was made by Commissioner Ogens that the Commission determined the amending of the IECS regulation will improve public safety and hereby approves the publication of the amended Regulation in the County Register with a 30-day comment period. MOTION SECONDED by Commissioner Bren with Commissioners Bren, Carr, Freeman, and Ogens voting for the motion and Commissioners Marco, Powell, and Sterling voting against. MOTION FAILED because a 5-vote majority was not obtained.

Discussion followed.

A MOTION was made by Commissioner Bren that amending the IECS regulation will improve public safety and to insert the following language to section 4.b.4 as follows: "The first arriving officer is the incident commander. The assigned on-duty command officer from the first-due jurisdiction or district may assume control from a command officer of equal rank. A local fire/rescue Chief has authority to assume command over an incident within his or her jurisdiction." There was NO SECOND to the motion. MOTION DIED. Commissioner Bren withdrew his motion.

A MOTION was made by Commissioner Ogens that the Commission: a) proceed with the publication of the proposed IECS regulation noting that 4.b.4 remains outstanding; b) solicit comments on the proposed language from both the Operations Committee and Fire Board. The motion includes the statement the Commission determined that amending the IECS regulation will improve public safety. MOTION SECONDED by Commissioner Bren.

Commissioner Carr objected, indicating that this would just prolong this matter and just defer its resolution to a later day. He suggested that the Commission consider a new motion.

Commissioner Ogens withdrew his motion stated above. Commissioner Bren withdrew his second to the motion.

A MOTION was made by Commissioner Carr to substitute the amended regulation with the following language: "The first arriving officer is the incident commander. The assigned on-duty command officer or district chief from the first-due jurisdiction may assume command from a command officer of equal rank. A fire/rescue Chief has the authority to assume command over an incident within his or her jurisdiction". MOTION SECONDED by Commissioner Bren with Commissioners Bren, Carr, Freeman, and Ogens voting for the motion and Commissioners Marco, Powell, and Sterling voting against. MOTION FAILED because a five-vote majority was not obtained.

Chairman Aoyagi expressed concern that there continued to be a lack of consensus on this one section of the proposed IECS policy. He told the Commission the matter would be rewarded back to the Operations Committee for subsequent consideration by the Commission.

Commissioner Ogens stated that he had just reread Chapter 21 regarding the IECS. The plain language reading of the law implies that the Commission must adopt an IECS and any amendment, after its adoption, requires a 5-vote majority. He believed the language, as stated, allows the adoption of IECS with a simple majority vote. He requested that the Fire Administrator obtain a legal opinion regarding whether or not the adoption of the IECS, as required by law, requires a simple majority (4-3) or a super majority (5-2).

404- Revisions to Code of Ethics and Personal Conduct Regulation

Chairman Aoyagi reported that the second item on the agenda was the proposed revision to the Code of Ethics and Personal Conduct. Chapter 21 also requires the Commission to adopt the Code of Ethics and Personal Conduct by regulation. Accordingly, the action to be taken by the Commission is to approve the proposed Code of Ethics and Personal Conduct for publication in the County Register for a 30-day comment period. Upon receipt and consideration of comments, the Commission will subsequently recommend the adoption of the revised Code of Ethics and Personal Conduct to the County Council as a regulation.

The HRST Committee had unanimously recommended the adoption of the proposed Code of Ethics and Personal Conduct during the August 2000 Commission meeting. The matter was tabled by the Commission to its September 2000 meeting to allow the Commission an additional 30 days to review the proposed policy. In September 2000, the Commission removed the item from the table. After discussion, the Commission again tabled consideration of Code of Ethics and Personal Conduct for an additional 30-day period. In October 2000, the Commission discussed the proposed policy and received extensive comments from interested parties. The Commission approved several amendments to the policy as a result of the discussions. The Commission deferred action on the proposed Code of Ethics to be able to subsequently review the changes made.

Chairman Aoyagi reported that on November 1, a work session was held with representatives of the MCFRS resource groups to resolve any outstanding issues and to develop consensus for the proposed Code of Ethics as revised. Additional changes to the policy were developed. These recommended changes were included in the proposed revisions to the Code of Ethics, in the Commission packet, dated November 13, 2000, including all prior changes approved by the Commission. A brief explanation of the changes developed as a result of the November 1, meeting was provided.

Chair Aoyagi noted that the motion at the last Commission meeting was to defer action until a commission meeting in November, essentially tabling the motion to approve the publication of the proposed Code of Ethics and Personal Conduct for the 30 day comment period in the County Register.

Chairman Aoyagi asked the Commission if there were any further discussion on the motion. After brief discussion, interested parties were provided the opportunity to comment. The parties who provided comments were as follows: Chief Long of the Damascus VFD, Ms. Queenin, Ms. Goodloe, Mr. Moore of the Rockville VFD, President Sparks of Local 1664, and Ms. Wells of NOW. The discussion focused mainly on how any insignia or emblem would identify the wearer with MCFRS. Chair White of the Fire Board raised concerns about the definition of "on-duty" personnel and advised that the Fire Board will submit further comments on that issue.

During the extensive discussion that followed, the Commission agreed to have a motion to include all the amendments to the proposed policy. The Commission, during its discussions, concurred on the following changes:

- page FRC-3, sec.3.i – On-Duty Personnel: 1st sentence - substitute *officially-provided* with officially-sanctioned and insert after *officially sanctioned uniform gear* or any emblem or

insignia that identifies the wearer with MCFRS. 3rd sentence – insert while on MCFRS premises, including but not limited to operational areas of the station after *Personnel are considered on-duty*

- page FRC-7, sec.4.c.4.C: last sentence – strike *whether wearing the official uniform or not*
- page FRC-8, sec.4.c.11: split the paragraph into 2 items: a. *On-duty personnel must behave in a professional manner at all times regarding any physical contact;* b. *Unwelcome or offensive touching is prohibited.*
- page FRC-11: add a new section D to read: “Any party may have a representative present during an investigative interview. Such provisions for representation shall not unreasonably delay proceeding with the investigative interview or the conduct of the investigation. Representation may continue throughout the investigative and disciplinary process”.

A MOTION was made by Commissioner Ogens to publish the Code of Ethics and Personal Conduct Regulation, as amended above and as presented in the November 13 packet, in the County Register. MOTION SECONDED by Commissioner Powell and PASSED unanimously.

A MOTION was made by Commissioner Marco to adjourn the meeting. MOTION SECONDED by Commissioner Sterling and PASSED unanimously.

The meeting was adjourned at 12:35 a.m.

Respectfully Submitted,

Gordon A. Aoyagi
Fire Administrator